

MEMORANDUM

TO: All Purchasing Groups Proposing to Transact Business in Nebraska

FROM: Department of Insurance

SUBJECT: Requirements Under Liability Risk Retention Act of 1986 and Nebraska Risk Retention Act

The Nebraska Risk Retention Act, hereafter "NRRA" and codified under Neb.Rev.Stat. §44-4401 et seq., became effective May 6, 1987, and is intended to be consistent with and complementary to the Federal Liability Risk Retention Act of 1986, hereafter "LRRA". NRRA is substantially the same as the December 10, 1986 NAIC Model Risk Retention Act draft. The following outlines Nebraska's requirements regarding purchasing groups.

I. Notice of Intent to do Business

A purchasing group which intends to do business in Nebraska shall furnish notice of such intention to the Director of Insurance using the National Association of Insurance Commissioners standard purchasing group registration form. Such notice shall, among other things:

- (1) Identify the state in which the purchasing group is domiciled;
- (2) Specify the lines and classifications of liability insurance which the purchasing group intends to purchase;
- (3) Identify the insurance company from which the group intends to purchase its insurance and the domicile of such company;
- (4) Identify the principal place of business of the group;
- (5) Provide a general description of business or activities engaged in by group members;
- (6) Provide copies of any organizational documents of the purchasing group, such as Articles of Incorporation/Association or By-Laws;
- (7) Written verification from the State Department of Insurance where the purchasing group is domiciled that the purchasing group is properly registered in that state;
- (8) Provide name and address of agents or brokers licensed by the Nebraska Department of Insurance through whom purchases in Nebraska will be effected;
- (9) Designate the Director of Insurance of Nebraska as agent solely for purposes of receiving service of legal process in accordance with the requirements of LRRA;
- (10) An initial registration fee of \$100.00 will be required and a \$100.00 annual renewal due October 1 of each year will be required to continue the registration.

II. Agents and Brokers

Persons, other than licensed surplus lines agents, acting or offering to act as an agent or broker for a purchasing group which solicits members, sells insurance coverage, purchases insurance coverage for its members located within this State or otherwise does business in this State shall, before commencing any such activity, obtain a license from the Director pursuant to the Insurance Producer's Licensing Act, Neb.Rev.Stat. §44-4001 et seq. The requirements imposed on non-resident agents and brokers shall be the same as the requirements imposed on resident agents or brokers. In any event, there is no requirement that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in Nebraska.

A purchasing group may not purchase insurance for risks or exposures located in Nebraska from any risk retention group which does not meet the requirements of LRRA or NRRA. Moreover, a purchasing group may not purchase insurance for any risk or exposure located in Nebraska from an insurer not admitted to transact business in Nebraska, unless the purchase is effected through a licensed surplus lines agent in accordance with the requirements of Nebraska law, Neb.Rev.Stat. §44-139 et seq. However, such surplus lines agents and brokers need not be residents of Nebraska. A purchasing group having members or exposures located in Nebraska shall be subject to all applicable Nebraska laws which do not discriminate against a purchasing group or its members.

III. Reporting Requirements and Taxes

1. Insurer Licensed in Nebraska:

If the purchasing group purchases insurance from an insurance company licensed in Nebraska, such insurer shall report and pay premium taxes on insurance coverage it provides to purchasing group risks resident or located in Nebraska. Such business shall be disclosed on the insurer's annual statement and premium taxes thereon shall be paid in accordance with regular procedures for insurance companies admitted in Nebraska.

2. Insurer Not Licensed in Nebraska:

If the purchasing group purchases insurance for risks resident or located in Nebraska from an insurer not licensed in Nebraska, a surplus lines agent licensed by the Nebraska Department of Insurance must be utilized and such surplus lines agent shall be responsible for reporting such business and paying taxes thereon in accordance with Nebraska law (See II. above).

The annual surplus lines report and tax payment must be received by the Nebraska Department of Insurance on or before February 15 of each year. The premium tax for surplus lines insurance business in Nebraska is based on a rate of 3% of direct written premiums on risks resident or located in Nebraska (retaliatory tax provisions do not apply to surplus lines business).

The interest rate charged for late tax payments received is 9% calculated on a 365 day basis for the amount of tax due. Nebraska statutes do not provide for an extension of time in filing the annual report.

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Quarterly surplus lines reports must be received by the Department of Insurance no later than 30 days after the last day of the calendar quarter. The report must be filed, even if no business was written during the quarter.

Questions regarding Nebraska's requirements for purchasing groups intending to do business in Nebraska can be addressed to Lynn Nannen, (402) 471-2201.

The following is the uniform registration form adopted in June 1991, by the NAIC.

Part A

STATE OF _____
Department of Insurance

PURCHASING GROUP-NOTICE AND REGISTRATION
(All information should be typed)

1. Name of the Purchasing Group:

2. List any other name(s) by which the Purchasing Group is known or may be doing business in this State or any other state:

3. a) Form of organization (i.e., corporation, partnership, association) and the state in which organized:

b) Purpose(s) of organization:

4. a) The Purchasing Group is domiciled in the state of: _____
b) Address: _____

5. Physical address of the administrative office of the Purchasing Group, if different from response to Item #4b above:

6. The Purchasing Group intends to purchase the following classifications of liability insurance and/or sub-classifications thereof:

PURCHASING GROUP FORM

7. The Purchasing Group intends to purchase the liability insurance described in Item #6 above from the following insurance company or companies: (Give full name of company, state of domicile, NAIC code and Federal Employer Identification Number (FEIN)).

<u>Name of Company</u>	<u>State of Domicile</u>	<u>NAIC Code</u>	<u>FEIN</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

8. List the name, address and social security number (SS#) of each officer and director of the Purchasing Group: (Attach additional pages if necessary.)

<u>Name</u>	<u>Address</u>	<u>SS#</u>	<u>Position with Purchasing Group</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

9. List the name, SS#, address and telephone number of the person within the Purchasing Group who is most knowledgeable about the Purchasing Group's insurance program, including membership criteria and coverages:

<u>Name</u>	<u>SS#</u>	<u>Address</u>	<u>Telephone #</u>
_____	_____	_____	_____
_____	_____	_____	_____

10. List the name, FEIN, address and telephone number of the company that manages or administers the insurance program for the Purchasing Group, and the name, SS#, and telephone number of the person responsible for the Group's insurance program: (If none, answer none)

<u>Name</u>	<u>FEIN/SS#</u>	<u>Address</u>	<u>Telephone #</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

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11. List the name(s), SS#(s) and address(es) of the licensed insurance agent(s), broker(s) or excess surplus line broker(s) responsible for the purchase of liability insurance for the Purchasing Group and its members and the state(s) in which they are licensed: (Attach additional pages, if necessary. If none, answer none.)

<u>Name</u>	<u>SS#</u>	<u>Address</u>	<u>State(s)</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

12. Has any person transacting business on behalf of this Purchasing Group ever:

- a) been arrested, indicted and convicted of a felony or is a felony charge currently pending against any such person? _____
- b) had denied any application for a professional, vocational or business license? ____
- c) had suspended or revoked any such license? _____
- d) had withdrawn or surrendered any such application or license to avoid potential disciplinary action against licensee? _____

If the answer to any part of this question is yes, attach a supplementary statement explaining in full each such occurrence.

13. The Purchasing Group is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar or common business, trade, product, services, premises or operations. Give a general description of business or activities engaged in by Purchasing Group members:

14. The Purchasing Group purchases the liability insurance listed in Item #6 above only for its group members and only to cover their similar or related liability exposure, as described in Item #13 above.
15. The Purchasing Group has as one of its purposes the purchase of liability insurance on a group basis.

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16. The Purchasing Group has designated the Insurance Commissioner (Director, Superintendent) of this State to be its agent solely for the purpose for receiving service of legal documents or process by executing Part B of this form, attached hereto.
17. The Purchasing Group has submitted a registration fee of \$_____, if applicable, payable to the Insurance Commissioner (Director, Superintendent) of this State.
18. The Purchasing Group will not purchase any insurance policy in this State that provides coverage prohibited generally by statute of this State or declared unlawful by the highest court of this State whose law applies to such policy.
19. The Purchasing Group will comply with all other applicable state laws.
20. The Purchasing Group will notify the Insurance Commissioner (Director, Superintendent) of any subsequent changes in any of the items included in this form.

The undersigned hereby swear and affirm that the foregoing statements and information regarding their principal, the _____
(Name of Purchasing Group)
are true and correct.

President of the Purchasing Group

Secretary of the Purchasing Group

State of _____)

)ss:

County of _____)

Sworn before me this _____ day of _____, 20_____.

_____, Notary Public. My Commission Expires: _____

Part B

PURCHASING GROUP FORM

APPOINTMENT OF ATTORNEY TO ACCEPT SERVICE AND DESIGNATION

The _____ (“the Group”), a purchasing group organized under the laws of the State of _____, having notified the Insurance Commissioner (Director, Superintendent) of the State of _____ of its intention to do business in this State as a purchasing group pursuant to the federal Liability Risk Retention Act of 1986, hereby appoints the Insurance Commissioner (Director, Superintendent) of the State of _____ any successor in office, and any authorized deputy for its true and lawful attorney, in and for the State of _____, upon whom all legal documents or process in any proceeding against it may be served. Such service of process shall be of the same legal force and validity as if served personally upon the Group.

The Group designates:

(Name)

(Address)

(City, Town or Village)

(State and Zip Code)

as its officer, agent or other person to whom shall be forwarded all legal documents or process served upon the Insurance Commissioner (Director, Superintendent) of the State of _____, any successors in office, or any authorized deputy, for the Group. This designation shall continue in full force and effect until superseded by a new written designation filed with the Insurance Commissioner (Director, Superintendent).

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This appointment and designation is made pursuant to a resolution by the Group's governing body authorizing it, and a certified copy of the resolution is attached hereto. This appointment shall be binding upon any person or corporation which as successor acquires the Group's assets or assumes its liabilities, by merger or consolidation or otherwise.

This appointment may be withdrawn only upon a written notice of termination and, in any event, shall not be terminated by the Group or its successor so long as any contracts or liabilities or duties arising out of contracts entered into by the Group while it was doing business in this State are in effect.

IN WITNESS OF THIS APPOINTMENT AND DESIGNATION,
the Group, in accordance with the resolution of its Board of
Directors duly passed on _____, 20____
_____, has affixed its corporate seal, and caused the same to be
subscribed and attested in its name by its President and Secretary,
at the City of _____,
in the State of _____, on
_____, 20_____.

Name of Purchasing Group

By: _____
President

Secretary

State of _____)

)ss:

County of _____)

Sworn before me this _____ day of _____, 20_____.

_____, Notary
Public.

My Commission Expires: _____